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ACCESS TO WIKIPEDIA RESTORED: TURKISH CONSTITUTIONAL COURT DECIDED ON VIOLATION



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ACCESS TO WIKIPEDIA RESTORED: TURKISH CONSTITUTIONAL COURT DECIDED ON VIOLATION

Wikipedia is defined in its platform as "free, independent, non-profit multilingual online encyclopedia created and maintained as an open collaboration project by a community of volunteer editors using a wiki-based editing". When the origin of the word is examined, "wiki" is derived from the word "wiki wiki", which means fast or informative in the Hawaiian language, and "pedi" is derived from the word paideia, which means "comprehensive cultural education system" in Ancient-Greek Civilization.

Today, the platform contains approximately 50 million articles in more than 300 languages, and has become one of the most popular online platforms for people who seek information. The reason Wikipedia has been on the agenda recently is that, the decision to block access to Wikipedia has been lifted and Wikipedia has been reinstated in Turkey.

As it can be recalled, access to Wikipedia was blocked by a decision of Turkish Information Technologies and Communications Authority (**ICTA**), at the request of the Directorate General of Security Affairs of the Prime Ministry, as an administrative measure, pursuant to Article 8/A of the Law No. 5651 on the Regulation of Publications on the Internet and Prevention of Crimes Committed Through Such Publications (**Law No. 5651**). The access blocking decision was approved at the same day by Ankara 1st Criminal Court of Peace. The reason behind the access blocking decision was stated as, the statements in the articles titled "The Turkish Occupation of Northern Syria", "Foreign Involvement in Syrian Civil War" and "State Sponsored Terrorism" on Wikipedia, regarding Turkey. Therewith, Wikimedia Foundation, to which Wikipedia was affiliated, applied to Ankara 1st Criminal Court of Peace for lifting the access blocking decision, but this request was denied. The Court stated in its justified decision that the contents subject to the access blocking would damage the reputation and dignity of the country and gave the impression that it is a country which supports terrorism.

One of the biggest criticisms of the decision was blocking the access to the entire Wikipedia platform, rather than solely blocking the access to URLs containing relevant contents. ICTA stated that the reason behind this occurrence is the relevant URL addresses not being encrypted and that access blocking is technically not being possible and that in order to prevent the violation, the only possibility is to block access to the entire platform.

Following the access blocking decision, Wikimedia Foundation and some users of Wikipedia filed an individual application before the Turkish Constitutional Court (**Court**), arguing that the decision is unfairly restricting the freedom of expression. Meanwhile, Wikimedia Foundation had created Wikizero as a "mirror website" to enable Wikipedia content to users from Turkey. Users wishing to access Wikipedia content from Turkey had used this platform until September 2019. Although Wikimedia Foundation claims in its subsequent appeals that there have been substantial changes on relevant contents and that the access blocking decision has become groundless, these claims were not recognized. However, the Court noticed this issue and requested both versions of the contents in the URL addresses: the version at the date of the decision made and the new version that was stated by the applicant.

The Court made its decision regarding individual applications, approximately after three years, on 26 December 2019, that, access blocking decision is unlawful; and sent its decision to Ankara 1st Criminal Court of Peace for reassessment. It appears from the relevant decision that the Court examined the relationship between the state of emergency and the access blocking. Court expressly stated that although the access blocking decision had happened under the state of emergency, it did not relate to the reasons for the declaration of the state of emergency or the elimination of the causes of the state of emergency. It also stated that the decision had been assessed irrespective of the state of emergency.

In addition to this, the Court decided that the access blocking decision should be assessed pursuant to Article 26 of the Constitution titled "freedom to express and disseminate thought". Accordingly, Court decided that, the access blocking decision did not show any concrete justification for interfering with the content contained in the URL addresses within the scope of "protection of national security and public order", and the content of the objections made by the applicant against the decision has been denied with an unclear justification such as "damaging to reputation of the country" in the sense of "protection of national security and public order". Hence, it ruled that there has been a violation of Article 26 of the Constitution. The Court also ruled that the enforcement of Article 8/A of the Law No. 5651 is ill-founded, since the existence of non-delayable case could not be proved.

In addition, the Court stated that the access blocking decision has been an intervention to the Wikimedia Foundation's rights of distribution of information and thoughts, who is a content provider and it also unlawfully restricts users' rights of access to information and thoughts.

Briefly, the Court concluded that the access blocking decision is unlawful, and that blocking access to Wikipedia violated the right to freedom of expression, which is considered as one of the most important rights in democratic societies. It therefore ruled that the violation must be lifted and sent an example of the decision to Ankara 1st Criminal Court of Peace for re-trial and for eliminating the consequences of the violation. Thus, Wikipedia, which is in an inaccessible position for a long time, has become accessible for users in Turkey effective from 15 January 2020 upon the decision of the Court. Now, users in Turkey can access freely to Wikipedia and can benefit of the information from Wikipedia content in the way they wish.

TOGG; Will Bring More Than a Car

While electric vehicles equipped with current technologies replace classic car among the world, in recent months, first major steps were taken in Turkey as well. Türkiye'nin Otomobili Girişim Grubu Sanayi ve Ticaret A.Ş. (**TOGG**), established as a company on 25 June 2018, will produce Turkey's electric and domestic automobiles. Production is planned to start in 2022.

The outstanding feature is the domestic car to be produced as electrical. In addition, 300 or 500 kilometers range options and 80% charge capacity in 30 minutes are among the outstanding features of the TOGG car as well. Whereas the automobile is being outstand by its properties that can compete with their competitors in the same segment with the technical equipment, the aspect that makes the automobiles different and also significant for Turkey is the software and technology products it will contain within it.

According to officials, the car to be produced will be equipped with the latest technologies, some of which have never been used before. The feature that will attract the attention of the drivers the most is the "hologram assistant" feature planned to be in the vehicle. Thanks to this technology, road details, bumps and bridges are planned to be transmitted directly to the pupil of the driver, and the driver can also see these warnings while looking at the road. It should be underlined that the holographic assistant technology will be used for the first time in the world. Another feature planned to be found in the vehicle is "autonomous driving technology" which started to be used recently. Again, thanks to this technology, the vehicle can move on its own without the need for any intervention by the driver. Although this technology causes controversy for security reasons, it is one of the possibilities that the technology will be developed until the date of the domestic car production and therefore the confidence in this technology can be increased. In addition, the car, which has a fully intelligent system in it, will be connected to the centers to be determined, can update itself without the driver's intervention and will send a notification to the center in case of any malfunction. Another technology that can take place in the domestic car after the future updates may be, although it is not ascertain yet, the domestic to be connected to smart home systems in the houses, so that drivers can control their homes while they are inside the car. We are excitedly awaiting developments in this innovative project which automobile and technology is intertwined in Turkey.

European Data Strategy Document

Within the scope of "A Europe Fit for the Digital Age", European Commission published four new papers on 19 February 2020, titled "Communication: Shaping Europe's Digital Future", "White Paper on Artificial Intelligence: a European Approach to Excellence and Trust", "Communication: A European Strategy for Data" and "Commission Report on Safety and Liability Implications of AI, the Internet of Things and Robotics".

Among these documents, "Communication: European Data Strategy" (**Data Strategy**) is especially important for the reason that it envisages a single data market within the European Union. In the Data Strategy, which notes that the data is at the center of the transformation and that the data produced by citizens should be used for the benefit of citizens, the vision of Europe for the data is explained and planned strategies to be implemented to reach the targeted point are expounded.

Studies on data law made by European Commission can be summarized as; General Data Protection Regulation, Regulation of Free Flow of Non-Personal Data, Cybersecurity Act and the Open Data Directive. Data Strategy shows that new regulations are underway in this region.

In Data Strategy, which explains that Europe's point of view on data is to base human being and fundamental rights and freedoms in the center, the goal of creating a single European data market has been expressed and it was defined as a market which comprehensively includes data; including open data, personal data, non-personal data and sensitive sectoral data. The purpose of establishing a single data market is expressed as to ensure security and enable enterprises to easily access high quality and high amount of data.

In Data Strategy, it is stated that European rules and enforceable methods guarantee the flow of data across Europe and cross-sectoral, guarantee the application of rules in this area regarding protection of personal data, consumer protection and competition law as well, and ensure that the access and use of data will be secured by fair, practical, clear and reliable data management mechanisms for everyone. In this way, it is aimed to eliminate the concerns about creating a single data market. In addition, various strategies have been expressed in order to make Europe the most interesting, secure and dynamic data economy in the world. Other than the aim of to create a single data market, some of the other noteworthy strategies are: providing new regulations especially for the purpose of establishing the legal basis for using and accessing to cross-sectoral data, if applicable proposing a Data Law, developing businesses operating in the data area and making investments to the enterprises providing cloud services on the purpose of establishing a single data market, establishing the legal basis for organizing the cloud services area and supporting the data spaces to be created in various fields such as health, transportation and energy.

Data developments in the European Union, in particular the establishment of the single European data market and legal regulations in this area, are expected to be on the agenda in longer term. In today's world, where the importance of data is increasing day by day, it is exciting for governmental organizations to follow these developments and work to establish both the economic and legal basis.

Answers. Not theories.

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